IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appl. No.	:	09/833,448
Applicant(s)	:	Letovsky *et al.*
Filed	:	April 12, 2001
TC/A.U.	:	3713
Examiner	:	Yveste Cherubin
Docket No.	:	30554-05700
Customer No.	:	27171
Title	:	*Method and System for Broadcast and Control of a Remotely Located Wagering Device*

MAIL APPEAL BRIEF - PATENTS
COMMISSIONER OF PATENTS
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APPLICANTS' APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Sir:

In response to the Pre-Appeal Brief Review Panel decision dated March 6, 2006,

Applicants respectfully submit the following Appeal brief. A Notice of Appeal was previously

filed on January 25, 2006, with the Pre-Appeal Brief for Review.

In view of the following arguments, Applicants respectfully request reconsideration and

withdrawal of the outstanding rejections, and allowance of the pending claims.

I. Real Party in Interest (37 C.F.R. § 41.37(c)(1)(i))

The real parties in interest include Station Casinos, Inc., and the applicants of the

application, Howard Letovsky, Tony Fontaine and Gary Ramos.

II. Related Appeals and Interferences (37 C.F.R. § 41.37(c)(1)(ii))

There are no related Appeals or Interferences known to Appellants which will directly

affect, be directly affected by, or have a bearing on the Board's decision in the instant appeal.

III. <u>Status of the Claims (37 C.F.R. § 41.37(c)(1)(iii))</u>

Claims 1-9, 11-23, and 25-34, attached as Appendix A, are pending and presently on appeal. Appellants withdrew from consideration original claims 35-41, without prejudice or disclaimer, on June 2, 2003, in their Response to an earlier Requirement for Restriction/Election. Originally filed claims 10 and 24 were cancelled and claims 1, 11, 12, 22, 23, 26, 27 and 34 were amended, without prejudice or disclaimer, by Appellants on February 27, 2004. Claim 1 was further amended, without prejudice or disclaimer, by Appellants on February 3, 2005.

This Appeal to the Board of Patent Appeals and Interferences is from the final rejection of claims 1-9, 11-23, and 25-34 in the Office Action mailed July 28, 2005 ("Final Rejection").

IV. <u>Status of Amendments (37 C.F.R. § 41.37(c)(1)(iv))</u>

No amendments were filed subsequent to the Final Rejection.

V. <u>Summary of Claimed Subject Matter (37 C.F.R. § 41.37(c)(1)(v))</u>

Independent claim 1 (*Appendix A*, at 1) is directed to an interactive gaming system that includes a data network (*e.g.*, Figure 1, Element # 40, 42) in communication with a user computer (*e.g.*, Figure 1, # 2), a gaming server (*e.g.*, # 60) in communication with the data network, and a wagering device (*e.g.*, # 50) in communication with the gaming server. The wagering device is located remotely from the user computer, and the user computer remotely controls the wagering device. The system further includes a bandwidth and transmission detection device (*e.g.*, # 90), such that transmissions between the user computer and the wagering device are optimized using encryption and compression techniques. *See Appendix B*, at B2, B9, B10, Figure 1 and ¶ 0025 (U.S. Patent Application Publication No. 2020151363A1 (Applicants' Specification)).

Independent claim 11 is directed to an interactive gaming system that includes means for communicating between a remotely located computer (*e.g.,* Figure 1, # 2) and a wagering device(*e.g.,* # 50). Such means may include, for example, a data network (*e.g.,* # 40, 42) including the internet and a LAN or WAN (*e.g.,* ¶ 0025). The gaming system also includes means for entering commands into the computer to operate and control the wagering device, for example, a remote control panel (*e.g.,* # 3) (*e.g.,* ¶ 0025). The system further includes means for detecting a bandwidth and transmission, for example, a bandwidth and transmission detection device (*e.g.,* # 90), wherein transmissions between the remotely located computer and the wagering device are optimized using encryption and compression techniques (*e.g.,* ¶¶ 0025, 0030). *Appendix B,* at B2, B9-B11, Figure 1 and ¶¶ 0025, 0030.

Independent claims 12 and 34 are directed to methods for a remotely located player to control a wagering device. The wagering device (*e.g.,* Figure 1, # 50) is controlled using a remotely located computer (# 2) to communicate with the wagering device (*e.g.,* ¶ 0025), and by entering commands into the computer to operate and control the wagering device (*e.g.,* ¶ 0025). The wagering device is further controlled by detecting the player's connection bandwidth and transmission speed, and transmissions between the remotely located computer and the wagering device are optimized using encryption and compression techniques (*e.g.,* ¶¶ 0025, 0030). *Appendix B,* at B2, B9-B11, Figure 1 and ¶¶ 0025, 0030.

VI.　Grounds of Rejection To Be Reviewed on Appeal (37 C.F.R. § 41.37(c)(1)(vi))

The grounds of rejection to be reviewed on appeal are based on the rejection of claims 1-2, 4-6, 9, 11-15, 25-27, and 34 under 35 U.S.C. § 103(a) as unpatentable over Karmarkar (U.S. Patent No. 6,508,709) in view of Patel et al. (U.S. Patent No. 6,731,600). The issues are set forth as follows:

A.　A finding that the claims of an invention are obvious requires a *prima facie* showing that the differences between the claims of the invention and the prior art would have been obvious at the time the invention was made. Has the Examiner presented a *prima facie* showing of obviousness where the Examiner has failed to provide evidence of a purportedly obvious, but not disclosed, claim limitation?

B.　A finding of obviousness based on the combination of multiple prior art references requires a clear suggestion or motivation that would lead a person of ordinary skill in the art to combine the relevant prior art teachings in the manner claimed. Has the Examiner presented a *prima facie* showing of obviousness where the Examiner has failed to establish a motivation to combine the specific teachings in question?

VII.　Argument (37 C.F.R. § 41.37(c)(1)(vii)) - The Rejection of Claims 1-2, 4-6, 9, 11-15, 25-27, and 34 Pursuant to 35 U.S.C. § 103(a) Is Improper and Should Be Reversed

The cited prior art references do not disclose or suggest all aspects of claims 1-2, 4-6, 9, 11-15, 25-27, and 34. And the Examiner did not provide sufficient evidence that one of ordinary skill in the art would have been motivated to combine the prior art references. Thus, the Examiner has not established a *prima facie* case of obviousness of the pending claims and the rejections should be reversed.

1.　The Prior Art

Karmarkar is described as a virtual regulated casino-type gaming system that allows virtual gaming at a remote site using either "legally randomized live video" or "pre-recorded video." *Appendix B*, at B36 (Karmarkar, col. 2, ll. 38, 39). In operation, a remote on-site or off-site player using the virtual gaming system "bets, for or against, a live player while viewing

either a live casino video signal or a pre-recorded casino video from any secure multimedia

storage repository (e.g., disk, tape)." *Appendix B*, at B36 (col. 2, ll. 44-47). Karmarkar does not

describe the remote player controlling the actual live casino game, nor does it describe a remote

player's computer remotely controlling or operating an actual wagering device. As conceded by

the Examiner, Karmarkar also "fails to disclose providing a bandwidth and transmission

detection device in his system." Final Rejection at 2.

Patel et al., describes a system and method for determining network conditions. The

system includes a server computer and a client computer. The client computer further includes a

transmission latency detector and a transmission bandwidth detector. *See Appendix B*, at B51

(Patel, Abstract).

2.   The Law Regarding Obviousness

Section 103 of Title 35 provides:

> (a) A patent may not be obtained though the invention is not identically
> disclosed or described as set forth in section 102 of this title, if the
> differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the art
> to which said subject matter pertains. Patentability shall not be negatived
> by the manner in which the invention was made.

35 U.S.C. § 103(a); *See also Graham v. John Deere Co.,* 383 U.S. 1, 14, 86 S. CT. 684 (1966);

In re Dembiczak, 175 F.3d 994, 998 (Fed. Cir. 1999).

The determination of obviousness and, thus, patentability, is a question of law based on

several underlying factual determinations: (1) the scope and content of the prior art; (2) the level

of ordinary skill in the art; (3) the differences between the claimed invention and the prior art;

and (4) objective indicia of nonobviousness or secondary considerations. *See Sandt Technology,*

Ltd. v. Resco Metal and Plastics Corp., 264 F.3d 1344, 1354 (Fed. Cir. 2001); *Rockwell Int'l*

Corp. v. United States, 147 F.3d 1358, 1362 (Fed. Cir. 1998).

When obviousness is based on the teachings of multiple prior art references, the

Examiner must also establish some clear "suggestion, teaching, or motivation" that would have

led a person of ordinary skill in the art to combine the relevant prior art teachings in the manner

claimed. *See Abbott Laboratories v. Andrx Pharmaceuticals, Inc.*, 452 F.3d 1331, 1336 (Fed.

Cir 2006); *Medichem, S.A. v. Rolabo, S.L.*, 437 F.3d 1157, 1164 (Fed. Cir. 2006); *Tec Air, Inc. v.*

Denso Mfg. Mich. Inc., 192 F.3d 1353, 1359-60 (Fed. Cir. 1999); *Pro-Mold & Tool Co. v. Great*

Lakes Plastics, Inc., 75 F.3d 1568, 1572 (Fed. Cir. 1996). "It is insufficient to establish

obviousness that the separate elements of the invention existed in the prior art, absent some

teaching or suggestion, in the prior art, to combine the elements." *Kahn v. General Motors*

Corp., 135 F.3d 1472, 1480 (Fed. Cir. 1998). "[T]he record must provide a teaching, suggestion

or reason to substitute [one element] for the system of [another element] in the prior art. The

absence of such a suggestion to combine is dispositive in an obviousness determination."

Gambro Lundia AB v. Baxter Healthcare Corp., 110 F.3d 1573, 1578-79 (Fed. Cir. 1997).

The reason, suggestion, or motivation to combine prior art references "may be found

explicitly or implicitly: (1) in the prior art references themselves; (2) in the knowledge of those

of ordinary skill in the art that certain references, or disclosures in those references, are of special

interest or importance in the field; or (3) from the nature of the problem to be solved, 'leading

inventors to look to references relating to possible solutions to that problem.'" *Ruiz v. A.B.*

Chance Co., 234 F.3d 654, 665 (Fed. Cir. 2000) (*quoting Pro-Mold*, 75 F.3d at 1572); *see also*

Medichem, 437 F.3d at 1165. Federal Circuit case law "makes clear that the best defense against

the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous

application of the requirement for a showing of the teaching or motivation to combine prior art references." *Dembiczak*, 175 F.3d at 999. "Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability—the essence of hindsight." *Dembiczak*, 175 F.3d at 999.

The Examiner must explain with particularity not only the requisite motivation of one of ordinary skill in the art to combine the prior art teachings, but also some motivation to combine the prior art teachings <u>in the particular manner claimed</u>. *See In re Kotzab*, 217 F.3d 1365, 1371 (Fed. Cir. 2000) ("Particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed."); *In re Rouffet*, 149 F.3d 1350, 1357 (Fed. Cir. 1998) ("In other words, the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed.").

The obviousness determination must be evaluated "at the time the invention was made." 35 U.S.C. § 103(a); s*ee In re Raynes*, 7 F.3d 1037, 1039 (Fed. Cir. 1993) ("analytic focus is upon the state of knowledge at the time the invention was made. The Commissioner bears the burden of showing that such knowledge provide some teaching, suggestion, or motivation to make the particular combination that was made by the applicant."). The emphasis on the time of the invention forces the decision-maker to avoid improper hindsight reconstruction employing the features of the claimed invention.

3.   **Analysis**

The rejection of the pending claims was erroneous for the reasons discussed

below, including: (1) features of the rejected claims are not found in the prior art, as the

Examiner admits; and (2) the Examiner did not provide sufficient evidence that one of ordinary

skill in the art would have been motivated to combine the features of the Patel reference with the

prior art Karmarkar reference. As such, a *prima facie* case of obviousness has not been made.

Given proper consideration, the conclusion that Appellants' claims are unpatentable must be

withdrawn.

a.   **Claims 1-2, 4-6, 9, 11-15, 25-27, and 34**

i.   **The Cited References Do Not Disclose or Suggest All
        Features of the Rejected Claims**

Claim 1 recites an interactive gaming system including a data network, a user computer, a

gaming server, and a wagering device. The system further includes <u>a bandwidth and</u>

<u>transmission detection device</u>, wherein transmissions between the user computer and the

wagering device are optimized using encryption and compression techniques. This feature of the

claimed invention is not described by Karmarkar, as conceded by the Examiner ("[a]lthough

Karmarkar uses encryption and compression techniques to transfer data, he fails to disclose

providing a bandwidth and transmission detection device to his system." Final Rejection at 2.

Karmarkar also does not disclose the claimed feature of <u>the user computer remotely</u>

<u>controlling the wagering device</u>. As explained previously, Karmarkar describes a virtual casino

gaming system allowing a remote player to bet for, or against, a "live player" while viewing

either a live casino video signal or a pre-recorded casino video signal (*Appendix B*, at B36

(Karmarkar, col. 2, ll. 44-47)). Nowhere does Karmarkar describe a remote player controlling

the action of a live player, a live casino game, or any physical wagering device. In fact,

Karmarkar expressly teaches *against* directly remotely controlling a wagering device such as a

slot machine. Karmarkar states that:

> [M]any players, particularly younger players below the age of forty,
> consider video slot gaming to be quite boring.
> . . .
> The present invention makes the playing of non-slot games into "no-
> brainers" like slot games, without also eliminating the player "excitement
> and appeal" that non-slot games generate....
> . . .
> [Random Number Generator]-driven video slots can be inexpensively
> replicated by thousands of unregulated entities on the Internet....
> . . .
> By actual casino games is meant games which are actually being played
> by real players or restricted access pre-recorded games which have been
> actually but previously played by real players, both of which are played in
> a real, licensed casino or in a licensed restricted access tournament (e.g.,
> invitation-only high stakes poker, celebrity poker). The multimedia
> gaming system uses live video and live audio presentations to provide a
> live casino environment to the remote player 12. Alternatively, pre-
> recorded restricted access video and audio are played back to the remote
> player 12 in an autonomous legally randomized sequence to provide a
> licensable virtual casino gaming environment....
> . . .
> The present invention also allows a remote virtual slot players to
> participate in the outcome of a particular lucky slot machine, which is
> being played by a live slot player.

Appendix B, at B38, B40 (Karmarkar, col. 5, ll. 9-38, col. 6, ll. 11-22, col. 9, ll. 43-46).

While Karmarkar includes a "catch-all" paragraph explaining that it is not only applicable

to live casino games, but also "electronic, electromechanical or mechanical gambling and casino

game facsimiles" (*Appendix B* at B40 (Karmarkar, col. 9, ll. 47-65)), it nowhere describes

remotely controlling such "electronic, electromechanical or mechanical gambling and casino

game facsimiles." Rather, as discussed above, a remote player "participates" in the play of a slot

machine or similar device by viewing a "live" player operating the machine. *See Appendix B*, at

B40 (Karmarkar, col. 9, ll. 43-46)).

Assuming, for the sake of argument only, that the "wagering device" recited in claim 1 could be properly equated with the "multimedia virtual gaming content generation array 20" (also, *e.g.,* 164), or a "content creation and acquisition system 302" of Karmarkar (neither of which do the Applicants concede is proper), neither the player (*e.g.,* 12 and 112), the remote player station (*e.g.,* 46, 218, 316 (etc.)), nor the gaming server (multimedia virtual gaming content distribution center server, or hub) (*e.g.,* 34 and 176 (etc.)) of Karmarkar controls the "multimedia virtual gaming content generation array 20." Rather, the player (*e.g.,* 12 and 122) of Karmarkar is only able to interact with a simulation of the game (produced/distributed by the gaming server (*e.g.,* 34 and 176 (etc.)) by betting and/or controlling the speed of the game. See *Appendix B*, at B43-B45 (Karmarkar, col. 16, ln. 45 – col. 19, ln. 30). Therefore, in addition to failing to disclose a bandwidth and transmission detection device, the Karmarkar reference also fails to disclose the claimed feature of remotely controlling a wagering device.

Patel et al., fails to describe a gaming system of any kind and certainly does not describe remotely controlling a wagering device. Therefore, neither the Karmarkar nor Patel references, individually or in combination, describe the claimed feature of remotely controlling a wagering device. As a result, the Examiner has not presented a *prima facie* case of obviousness of claim 1. This rejection should be reversed.

ii.   **The Examiner Fails to Establish a Motivation to Combine the Specific Teachings of Karmarkar With Patel**

In addition to the failure of the Final Rejection to properly disclose the subject matter claimed by Applicants, the Final rejection also fails to provide the requisite evidence of

motivation to combine the prior art references. Specifically, the Examiner has failed to present sufficient evidence that one of ordinary skill in the art would have been motivated to modify the Karmarkar reference to include the recited "bandwidth and transmission detection device," that is purportedly described in the Patel reference. The Final Rejection concedes that Karmarkar "fails to disclose providing a bandwidth and transmission detection device to his system." Final Rejection at 2. Faced with this deficiency in Karmarkar, the Examiner argues that "Patel teaches a system and method for determining network conditions in which he includes [a] bandwidth and transmission detection device, see abstract, 6:4-15." *Id.* at pages 2-3. Having determined that Patel describes the recited "bandwidth and transmission detection device," the Examiner then concludes that "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the detection device as taught by Patel in the Karmarkar type system in order to estimate the amount of available transmission bandwidth between the server computer and the client computer." *Id.* at page 3.

The Examiner must explain explicitly the requisite motivation for one of ordinary skill in the art to combine the prior art teachings in the particular manner claimed. *See Kotzab*, 217 F.3d at 1371; *Rouffet*, 149 F.3d at 1357. As evidence of motivation to combine the references, the Examiner asserts that Karmarkar discloses "transferring data using data compression and encryption, 2: 12-36, 12:1-18," "data compression use a video codec[,] and that various communication pathways and protocols are used where the path for multimedia video source needs to be a specific bandwidth along with a specified bandwidth for the return path teach the importance of knowing the available bandwidth." Final Rejection at 2-3. In summarizing his argument, the Examiner stresses that "the knowledge generally available to one of ordinary skill

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in the art would lead one to understand that since bandwidth is important to the performance of the system then measurement and testing of the bandwidth, which is well known in the art, would be paramount to the operation of the device and provide adequate motivation to find a system where such measurements are made" *Id.* at pages 2-3. But these observations by the Examiner are insufficient evidence to support a motivation to combine.

The Federal Circuit's *Kotzab* opinion highlights the Examiner's legal error. *Kotzab* explains that merely pointing out that a particular problem was previously documented in the prior art does not provide sufficient evidence of a motivation to combine or modify prior art. *See Kotzab*, 217 F.3d at 1371. Here, the Examiner essentially argues that Karmarkar discloses a need for a specific bandwidth at specific parts of a gaming system, and that such a need is one of many problems that faced prior art gaming systems. But solutions to the stated bandwidth concerns are not limited to modifying the Karmarkar system to include a "bandwidth and transmission detection device."

Indeed, it is questionable whether Karmarkar even describes a need for specific bandwidth requirements, much less measuring or determining bandwidth of a user, as it merely mentions that a multimedia video transmission over a network using various communication protocols generally requires about 1 MB/sec data bandwidth. *See Appendix B*, at B36 (Karmarkar, col. 2, ll. 12-36). Because Karmarkar transmits recorded video or processed digitized (delayed) "randomized live video" to a remote player, and that player does not control the live event, there is no need to optimize the video signal to reduce transmission latency/delay as in the present invention. If such a concern does exist, there are numerous possible solutions available to one of skill in the art. For example, Karmarkar explains that a benefit of

transmitting "an encoded display (ED) signal" to the remote player terminal, rather than

transmitting an actual video image, is a significant reduction in the utilized bandwidth. *See*

Appendix B, at B42 (Karmarkar, col. 13, ll. 16-48).

Applicants submit that one of ordinary skill faced with such a concern may have, without

the benefit of hindsight reconstruction, selected a different solution than the one asserted by the

Examiner (perhaps using a more robust network connection, or using less data, etc.). The

Examiner has not established that one of ordinary skill, with no knowledge of the claimed

systems, would necessarily have been motivated to address a particular bandwidth problem using

the approach(s) of Applicants' claimed systems.

Moreover, the Examiner does not explain *how* Patel could be combined with Karmarkar

to accomplish the claimed subject matter. Patel's system and method for determining network

conditions operates such that it cannot merely be inserted into Karmarkar. Patel describes that its

system (and method) for determining network conditions includes a transmission latency

detector and a transmission bandwidth detector in its <u>client computer</u>, *i.e.*, at the computer where

the end transmission is received. This client computer would be analogous to Karmarkar's

remote terminal. Karmarkar explains that its signal processing, compression, and encryption is

accomplished at its "multimedia virtual gaming episode processing array 28" (also, *e.g.*, 210 and

310). *See Appendix B*, at B38, B41, B42 (Karmarkar, col. 5, ll. 42-53, col. 6, ll. 45-63, col. 12, ll.

1-19, and col. 13, ll. 3-30). The content is distributed by Karmarkar's gaming server (*e.g.*, 34

and 176 (etc.)). *See Appendix B*, at B39 (Karmarkar, col. 7, ll. 20-57). Therefore, to incorporate

the transmission latency detector and a transmission bandwidth detector of Patel with the gaming

system of Karmarkar, modifications would be required to at least Karmarkar's remote player

station (*e.g.,* 46, 218, 316 (etc.)) and gaming server (*e.g.,* 34 and 176 (etc.)), and most probably Karmarkar's processing array. The Examiner does not explain how the Karmarkar's system might be so modified, or the specific motivation for doing so. The Examiner also fails to provide evidence that a person of ordinary skill in the art would have been able and motivated to make such a modification.

The rejections of independent claims 11, 12, and 34 are erroneous for the reasons stated above. The Final Rejection does not state a *prima facie* case of obviousness with respect to claims 11, 12, and 34 because: (1) the features of the rejected claims are not found in the prior art; and (2) the Examiner did not provide sufficient evidence that one of ordinary skill in the art would have been motivated to combine the features of Patel with Karmarkar.

Claims 2, 4-6, and 9 depend directly from claim 1, and thus contain all of the features recited in claim 1. Because the Final Rejection does not state a *prima facie* case of obviousness with respect to claim 1, it also fails with respect to claims 2, 4-6, and 9.

Claims 13-15 and 25-27 depend directly from claim 12, and thus contain all of the features recited in claim 12. Because the Final Rejection does not state a *prima facie* case of obviousness with respect to claim 12, it also fails with respect to claims 13-15, and 25-27.

b.   Claim 7

The conclusion that Claim 7 is unpatentable over Karmarkar in view of Patel et al. and further in view of Watt (U.S. Patent No. 5,781,532) pursuant to 35 U.S.C. § 103(a) is erroneous.

Claim 7 depends directly from claim 1, and thus contains all of the features recited in claim 1. As stated above in connection with claim 1, the Final Rejection fails to state a *prima*

facie case for combination of the Karmarkar and Patel et al. references. The Examiner relies on this improper combination in connection with claim 7 as well.

The Final Rejection also fails to provide the requisite evidence of motivation to combine Karmarkar and Patel et al. with the Watt reference. The Final Rejection concedes that "Karmarkar in view of Patel fail to disclose a relay switching and serial data interface in communication with the gaming server and the wagering device." Final Rejection at 5. Faced with this deficiency in Karmarkar – Patel combination, the Examiner asserts that "Watt teaches a network system providing a relay switching and data link interface, 1:46-53." *Id.* at page 5. The Examiner then concludes, without providing any additional evidence, that "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the feature cited above as taught by Watt into the Karmarkar in view of Patel type system in order to reduce congestion." *Id.* at page 5.

As with claim 1, above, the Final Rejection does not identify any objective teaching in the prior art or knowledge generally available to one of ordinary skill that would lead that individual to combine features of the Watt reference with those of Karmarkar and Patel. Thus, the Office action fails to state a *prima facie* case of obviousness as to claim 7.

c.   Claim 8

The conclusion that Claim 8 is unpatentable over Karmarkar in view of Patel et al. and further in view of Khosla (U.S. Patent No. 6,080,063) pursuant to 35 U.S.C. § 103(a) is erroneous.

Claim 8 depends directly from claim 1, and thus contains all of the features recited in claim 1. As stated above in connection with claim 1, the Final Rejection fails to state a *prima*

facie case for combination of the Karmarkar and Patel et al. references. The Examiner relies on this improper combination in connection with claim 8 as well.

The Final rejection also fails to provide the requisite evidence of motivation to combine these prior art references with the Khosla reference. The Final Rejection concedes that "Karmarkar in view of Patel fail to disclose [a] gaming server comprising a file compression codec filter." Final Rejection at 5. Faced with this deficiency in Karmarkar – Patel combination, the Examiner asserts that "Khosla [ ] teaches providing sophisticated compression ,and filtering functions, 4:44-45." *Id.* at page 5. The Examiner then concludes, without providing any additional evidence, that "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to include the filtering functions taught by Khosla in the Karmarkar in view of Patel type system since Karmarkar discloses using data compression with a video Codec using, for example, J/MPEG and other application-specific compression techniques." *Id.* at page 5.

As with claim 1, above, the Final Rejection does not identify any objective teaching in the prior art or knowledge generally available to one of ordinary skill that would lead that individual to combine features of the Watt reference with those of Karmarkar and Patel. Thus, the Office action fails to state a *prima facie* case of obviousness as to claim 8.

d. Claims 3 and 16-20

The conclusion that Claims 3, 16-20 are unpatentable over Karmarkar in view of Patel et al. and further in view of Lvov (U.S. Patent No. 6,117,011) pursuant to 35 U.S.C. § 103(a) is erroneous.

Claims 3 depends directly from claim 1, and thus contains all of the features recited in claim 1. Claims 16-20 depend directly from claim 12, and thus contain all of the features recited in claim 12. As stated above in connection with claim 1, the Final Rejection fails to state a *prima facie* case for combination of the Karmarkar and Patel et al. references. The Examiner relies on this improper combination in connection with claims 3 and 16-20 as well. Thus, the Office action fails to state a *prima facie* case of obviousness as to claims 3 and 16-20.

e. Claims 21-23

The conclusion that Claims 21-23 are unpatentable over Karmarkar in view of Patel et al. and further in view of Graves (U.S. Patent No. 5,380,067) pursuant to 35 U.S.C. § 103(a) is erroneous.

Claims 21-23 depend directly or indirectly from claim 12, and thus include all of the features recited in claim 12. As stated above in connection with claim 1, the Final Rejection fails to state a *prima facie* case for combination of the Karmarkar and Patel et al. references. The Examiner relies on this improper combination in connection with claims 21-23 as well. Thus, the Office action fails to state a *prima facie* case of obviousness as to claims 21-23.

f. Claims 28-31

The conclusion that Claims 28-31 are unpatentable over Karmarkar in view of Patel et al. and further in view of Vuong (U.S. Patent No. 5,762,552) pursuant to 35 U.S.C. § 103(a) is erroneous.

Claims 28-31 depend directly or indirectly from claim 12, and thus include all of the features recited in claim 12. As stated above in connection with claim 1, the Final Rejection fails to state a *prima facie* case for combination of the Karmarkar and Patel et al. references. The
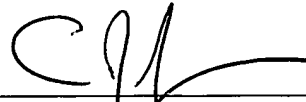
Examiner relies on this improper combination in connection with claims 28-31 as well. Thus,

the Office action fails to state a *prima facie* case of obviousness as to claims 28-31.

IX.   Conclusion

For the foregoing reasons, Applicants respectfully request that the rejections of claims 1-

2, 4-6, 9, 11-15, 25-27, and 34 be reversed and withdrawn.

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Respectfully submitted,

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APPENDIX A - CLAIMS

IN THE CLAIMS

1.   (Previously Presented) An interactive gaming system comprising:

a user computer;

a data network in communication with said user computer;

a gaming server in communication with said data network;

at least one wagering device in communication with said gaming server, said wagering device being located remotely from said user computer, wherein said user computer remotely controls said at least one wagering device; and

a bandwidth and transmission detection device, wherein transmissions between said user computer and said wagering device are optimized using encryption and compression techniques.

2.   (Original) The system of claim 1 further comprising a video camera in communication with said gaming server.

3.   (Original) The system of claim 1 further comprising a financial data server in communication with said gaming server.

4.   (Original) The system of claim 1 further comprising a routing/traffic management server in communication with said gaming server.

5.   (Original) The system of claim 1 further comprising an archive data server in communication with said gaming server.

6.   (Original) The system of claim 1 further comprising an archive data server in communication with said gaming server, wherein said archive data server comprises a date and time stamping unit.

7.　(Original)　The system of claim 1 further comprising a relay switching and serial data interface in communication with said gaming server and said at least one wagering device.

8.　(Original)　The system of claim 1 wherein said gaming server further comprises a file compression codec filter.

9.　(Original)　The system of claim 1 wherein said system transmits information in real time.

10.　(Cancelled)

11.　(Previously Presented)　An interactive gaming system comprising:

means for communicating between a remotely located computer and a wagering device;

means for entering commands into the computer to operate and control the wagering device; and

means for detecting a bandwidth and transmission, wherein transmissions between said remotely located computer and said wagering device are optimized using encryption and compression techniques.

12.　(Previously Presented)　A method for permitting a remotely located player to control a wagering device comprising:

using a remotely located computer to communicate with the wagering device;

entering commands into the computer to operate and control the wagering device; and

detecting the player's connection bandwidth and transmission speed, wherein transmissions between said remotely located computer and said wagering device are optimized using encryption and compression techniques.

13.   (Original) The method of claim 12 further comprising remote viewing of the wagering device.

14.   (Original) The method of claim 12 wherein using a remotely located computer to communicate with the wagering device further comprises communicating through a data network.

15.   (Original) The method of claim 12 wherein using a remotely located computer to communicate with the wagering device further comprises communicating through a gaming server.

16.   (Original) The method of claim 12 further comprising accessing personal financial information through the remotely located computer.

17.   (Original) The method of claim 12 further comprising accessing personal financial information through the remotely located computer and transferring money from a player's account to the wagering device.

18.   (Original) The method of claim 12 further comprising:
accessing personal financial information through the remotely located computer;
transferring money from a player's account to a deposit account,
authorizing a player access to play the wagering device based on a status of the deposit account; and
transferring relative gains or losses between the deposit account and the player's account.

19.   (Original) The method of claim 12 further comprising:
accessing personal financial information through the remotely located computer;
transferring money from a player's account to a deposit account,
authorizing a player access to play the wagering device based on a status of the deposit account;

playing another wagering device or other game of chance using the deposit account; and

transferring relative gains or losses between the deposit account and the player's account.

20.   (Original) The method of claim 12 further comprising reviewing actions taken by the player and results generated by the wagering device on the remotely located computer.

21.   (Original) The method of claim 12 wherein operating the wagering device comprises entering commands into the wagering device using a proxy.

22.   (Previously Presented) The method of claim 21 wherein the proxy is human.

23.   (Previously Presented) The method of claim 21 wherein the proxy is non-human.

24.   (Cancelled)

25.   (Original) The method of claim 12 further comprising detection of the player's connection bandwidth and transmission speed, wherein the detection is automatic.

26.   (Previously Presented) The method of claim 25 further comprising optimizing transmitted information based upon the detected bandwidth and transmission speed.

27.   (Previously Presented) The method of claim 26 further comprising optimizing transmitted information based upon the detected bandwidth and transmission

speed, wherein optimizing comprises selecting appropriate encryption or compression techniques.

28.   (Original) The method of claim 12 further comprising polling at least one wagering device to determine availability.

29.   (Original) The method of claim 28 further comprising providing a graphical user interface associated with the wagering device polled for availability.

30.   (Original) The method of claim 29 further comprising selecting an available wagering device using the graphical user interface.

31.   (Original) The method of claim 12 further comprising polling at least one gaming server to determine availability.

32.   (Original) The method of claim 12 further comprising:

transferring money from a player's account to an interstitial account server,

authorizing a player to play the wagering device based on a status of the interstitial account server, and

transferring relative gains or losses between the interstitial account server and the player's account.

33.   (Original) The method of claim 12 further comprising:

communicating the status of the player's account in an external database with a routing/traffic management server, the player's external database managed by a casino operator,

authorizing a player to communicate with a routing/traffic management server based on a status of the player's account,

permitting a player to play the wagering device based on an authentication check of the player, and

transferring relative gains or losses between a slot bank and the player's external account.

34. (Previously Presented) A method for permitting a remotely located player to control a wagering device comprising the steps of:

using a remotely located computer to communicate with the wagering device;

entering commands into the computer to operate the wagering device; and

detecting the player's connection bandwidth and transmission speed, wherein transmissions between said remotely located computer and said wagering device are optimized using encryption and compression techniques.

35. (Withdrawn) In a system for remotely controlling at least one wagering device using a user computer, a computer-readable memory for storing data for access by an application program comprising:

a data structure stored in said computer-readable memory, said data structure including information used by said application program and including:

a plurality of personal data fields;

a plurality of financial fields;

a plurality of wagering device control fields;

a plurality of wagering fields;`

a plurality of results fields;

wherein said fields have values and said application program controls the operation of the at least one wagering device.

36. (Withdrawn) The data structure of said computer-readable memory of claim 35 further comprising a plurality of video display fields.

37. (Withdrawn) The data structure of said computer-readable memory of claim 35, wherein said plurality of financial fields comprise a plurality of account balance fields.

38.   (Withdrawn) The data structure of said computer-readable memory of claim 35 further comprising a plurality of archival fields.

39.   (Withdrawn) The data structure of said computer-readable memory of claim 35 further comprising a plurality of date and time fields.

40.   (Withdrawn) The data structure of said computer-readable memory of claim 35 further comprising a plurality of bandwidth fields.

41.   (Withdrawn) The data structure of said computer-readable memory of claim 35 further comprising a plurality of transmission speed fields.